

MEMORANDUM

TO: Mayor Craig Brown and Members of Council

CC: City Manager Office, Executive Leadership Team, City Attorney Office

FROM: Sally Bakko, Director of Policy and Governmental Relations

DATE: April 28, 2023

RE: Legislative Report: Austin and Washington Update

Please find below an update on legislative activities in Austin and Washington. (*To access links below, control+click on link.*)

Austin Update

88th Texas Legislature – Regular Session Key Dates

May 8, 2023 – Last Day for House Committees to report House bills and House joint resolutions.

May 12, 2023 – Last Day for House to consider House bills and House joint resolutions.

May 20, 2023 – Last day for House committees to report Senate bills and Senate joint resolutions.

May 29, 2023 – Adjournment Sine Die (140th day or 20 weeks)

Texas Legislature News Highlights

Galveston Legislative Requests Update

- **CSHB 3097 (Leo-Wilson)** – as substituted, provides an exception for the credit score requirement when issuing anticipation notes or other debt for emergency financing due to a natural disaster. The bill was favorably reported by the House Pensions, Investments & Financial Services Committee. The bill is awaiting placement on the Local & Consent Calendar for full House action.
- **Meetings with Legislators and Legislative Staff.** I met with staff for Senators Paul Bettencourt (chairman), Tan Parker, and Royce West – members of the Senate Committee on Local Government – to brief them on CSHB 3097 with upcoming expected House passage after placement on the House Local & Consent Calendar. While speaking with Chairman Bettencourt's staff, I discussed the possibility of the Senate Committee on Local Government conducting a hearing on Senator Middleton's companion bill, SB 1394. With such action, the committee can act quickly when CSHB 3097 arrives from the House.
- **HB 3859 (Leo-Wilson)** – allows the General Land Office (GLO) to give partial approval to Dune Protection and Beach Access Plans so that coastal communities can move forward with amendments to facilitate effective and efficient compliance with the law while addressing unrelated non-compliance concerns. Due to concerns expressed by Chairman Todd Hunter, Legislative Council drafted the official committee substitute that brackets CSHB 3859 to Galveston County (committee substitute attached). Galveston County Commissioner Joe Giusti will provide a

letter of support on Monday. The committee substitute awaits action by the House Committee on Land & Resource Management.

City of Galveston Testimony on Senate Debt Legislation

I testified before the Senate Committee on Local Government on SB 976 and SB 977 to explain the City's concerns for the treatment of the definition of debt in the bills and the implications for our emergency financing following a hurricane (oral testimony is attached).

S.B. 976 (Middleton) – Tax Rate Adoption: would, among other things: (1) change the definition of "debt" for purposes of the tax rate calculation to include only debt approved at an election; (2) repeal the de minimis property tax rate calculation (the "fire truck exception") for taxing units, including cities under 30,000 population; and (3) repeal the section that provides that a taxing unit that adopts a tax rate that exceeds the voter approval rate but does not exceed the de minimis rate is not subject to an automatic election and is instead subject to a petition election.

S.B. 977 (Bettencourt) – Definition of Debt: would change the definition of "debt" for purposes of the tax rate calculation to include only debt approved at an election.

Both bills were left pending in committee without further action. Should the committee take action, Senator Middleton has committed to getting language included in the bills that will ensure the City's emergency financing following a natural disaster continues under the debt definition for the purposes of the tax rate calculation.

Senate Committee Moves Modified Substitute to SB 1217, Texas Windstorm Insurance Association (TWIA) Legislation

On Tuesday, April 25th, the Senate Committee on Business & Commerce favorably reported a second version of the Committee Substitute to SB 1217 as presented by Senator Middleton, to address TWIA administration issues. Due to concerns from Chairman Charles Schwertner and other committee members, bill provisions were removed that would have replaced Catastrophe Reserve Trust Fund (CRTF) funds currently provided by issuing public securities with a loan up to \$1 billion from the Economic Stabilization Fund ("Rainy Day" Fund) and securing financing arrangements through statewide surcharges.

As favorably reported by the committee, CSSB 1217 includes the following changes:

Prohibits TWIA from using money under its control to influence passage or defeat of legislation

- Violations by employee or board director results in immediate termination, fine of \$10,000.
- Except providing public information or response to public information request.

Relocate TWIA headquarters to TIER 1 or TIER 2 coastal county (applicable January 1, 2025)

Increases board to 11 members

- 5 members reside in TIER 1 coastal county (two additional members must be appointed by December 1, 2023)
 - to the extent possible regions are represented by a member residing in the region
 - 2 members must be property and casualty agents and are not captive agents
- 3 members reside outside the TIER 1 coastal counties; and
- 1 member is the public counsel of the Office of Public Insurance Counsel or the counsel's designee.

Except for emergency meetings, board meetings are held at a location in a TIER 1 or TIER 2 coastal county.

Limitations on certain adjustments:

- May not automatically adjust coverage amount purchased by policy holder;
- May not require use of any one replacement cost calculator; and
- The Board must vote on any adjustments for inflation to premiums, fees or other costs to policy holders.

Determination of Maximum Probable Loss

- only use catastrophe model that produces the lowest probable maximum loss
- may not consider cost of providing loss adjustments
- probable maximum loss must be approved by commissioner. If rejected, commissioner may set probable maximum loss at any amount determined by the commissioner;
- amount of loss adjustment expense, used for rate indication purposes of filing a rate, must be considered above the probable maximum loss.

House Committee Moves Bill Creating Short-Term Rental Task Force

As filed, [H.B. 2665](#) (Gates), would have prohibited a city from adopting or enforcing a local law applicable to short-term rentals. However, the House Committee on Land & Resource Management favorably reported a bill substitute that would create a task force to study the impact of local short-term rental laws. The task force would be attached to the Department of Licensing and Regulation. The 10-member task force would include: two members appointed by the governor; two members appointed by the lieutenant governor; two members appointed by the speaker of the house of representatives; one representative of the department; and two members representing neighborhood interests. As proposed in the substitute language presented, the committee is directed to submit recommendations to the legislature by December 31, 2024

Texas Legislature Committee and Floor Action Update

Floor Action on bills of interest:

[H.B. 9](#) (Ashby), creating the Broadband, Equity, Access, and Deployment program and the Broadband Infrastructure Fund. Passed the House.

[H.B. 2455](#) (T. King), requiring a fire department to offer an annual occupational medical evaluation to each fire fighter employed at no cost to the firefighter. Passed the House.

[S.B. 543](#) (Blanco), allowing a city to transfer real property under a Chapter 380 agreement. Passed the Senate.

[S.B. 561](#) (Sparks), prohibiting a city from issuing debt to purchase or lease tangible personal property if the expected useful life of the property ends before the maturity date of the public security. Passed the Senate.

[S.B. 1412](#) (Hughes), allowing an accessory dwelling unit (ADU) in a single-family zoning or un-zoned areas by right, and prohibits much of a city's ability to regulate an ADU. Passed the Senate.

[S.B. 1999](#) (Bettencourt), defining "foregone revenue amount" as the voter-approval tax rate minus the actual tax rate multiplied by the preceding year's total value, and redefines "unused increment rate" as the sum of the preceding three years' foregone revenue amount divided by current value. Passed the Senate.

[S.B. 2035](#) (**Bettencourt**), prohibiting a city council from authorizing an anticipation note or certificate of obligation to pay a contractual obligation under certain circumstances, including if a bond proposition on the same project failed to be approved during the preceding five years. An amendment was attached before final passage to provide an exception in the bill for non-voter approved debt incurred to finance debris removal and storm recovery following a federal or state declaration of disaster. Passed Senate.

[S.B. 2350](#) (**Bettencourt**), defining “voter-approval tax rate” for the purpose of the unused increment rate calculation as a taxing unit’s voter-approval tax rate in the applicable preceding tax year, as adopted by the taxing unit during the applicable preceding tax year, less the unused increment rate for that preceding tax year. Passed the Senate.

Other Committee Action on bills of interest:

[H.B. 1132](#) (**Spiller**), increasing the threshold at which competitive bidding is required for city purchases from \$50,000 to \$100,000. Voted from House County Affairs.

[H.B. 1579](#) (**Canales**), prohibiting punitive action against a firefighter without an administrative investigation. Applies to cities with a population of 10,000 or more regardless if the city is covered by meet and confer or collective bargaining agreement. Voted from House Urban Affairs.

[H.B. 2023](#) (**Muñoz**), requiring a city to pay attorney fees if the court determines an ordinance, regulatory decision, denial of an application, or similar measure is unenforceable because it is preempted by the state constitution or state statute. Committee substitute voted from House Land & Resource Management.

[H.B. 2789](#) (**Holland**), allowing an accessory dwelling unit (ADU) in a single-family zoning or un-zoned areas by right, and prohibits much of a city’s ability to regulate an ADU. Committee substitute voted from House Land & Resource Management.

[H.B. 3699](#) (**Wilson**), requiring the platting of a subdivision only when the landowner intends to lay out certain areas for public use. Committee substitute voted from House Land & Resource Management.

[H.B. 3921](#) (**Goldman**), prohibiting a city from requiring a residential lot to be larger than 1,400 square feet, wider than 20 feet, or deeper than 60 feet, and from adopting certain other requirements on small lots. The committee substitute favorably reported by the House Committee on Land & Resource Management changes the population in the bill to apply only to cities over 85,000 located in counties of one million or more.

[S.B. 929](#) (**Parker**), requiring a city to provide written notice containing certain information regarding any proposed zoning change that could result in the creation of a nonconforming use. If a nonconforming use is required by a city to cease operation, the owner or lessee of the property is entitled to receive either payment for costs associated with closing the operation or additional time to engage in the nonconforming use. Voted from House Land & Resource Management.

[S.B. 1419](#) (**Birdwell**), prohibiting cities from making a loan or grant of public money under a Chapter 380 economic development agreement from the proceeds of property taxes or other city obligations payable from property taxes and adding transparency measures. Committee substitute voted from Senate Natural Resources and Economic Development.

[S.B. 1663 \(Alvarado\)](#), allowing a city to declare a lower speed limit of not less than 20 miles per hour on certain residential roadways without a traffic study. Voted from House Transportation.

Washington Update

US Senate Passes Bipartisan Firefighter Bill

Last week the Senate voted 95-2 to advance [S. 870](#), the *Fire Grants and Safety Act*; none of the six amendments voted on were passed. The [bill](#) reauthorizes the U.S. Fire Administration (USFA), the Assistance to Firefighters Grants Program, and the Staffing for Adequate Fire and Emergency Response Grant Program until 2030. The bill includes an increase of nearly \$20 million for the USFA and maintains currently authorized levels of funding for the grant programs. The programs are used by local fire departments to address staffing needs, purchase equipment, develop fire training and education programs, and improve emergency medical services. The bill now moves to the House for consideration.

US House Subcommittee Conducts NFIP Reauthorization Hearing

The House Subcommittee on Housing and Insurance (of the House Committee on Financial Services) conducted a hearing this week entitled “[The Reauthorization of the National Flood Insurance Program: FEMA’s Perspective](#).” The sole witness will be David Maurstad, FEMA’s Assistant Administrator ([see testimony](#)). In recent years NFIP has been operating under short-term authorizations. The following [Committee Memorandum](#), outlines the discussed during the hearing including: current financial status of the NFIP; Risk Rating 2.0; FEMA’s increased focus on mitigation; and FEMA’s NFIP legislative reforms package. This hearing follows the Subcommittee’s March hearing, “[How Do We Encourage Greater Flood Insurance Coverage in America?](#)” Also, it follows a [House Committee on Homeland Security hearing](#) with Department of Homeland Security (DHS) Secretary Alejandro Mayorkas last week. Secretary Mayorkas, at that hearing, stated that DHS is reviewing Risk Rating 2.0.

As a reminder, last week FEMA released more [information on](#) full-risk rates. Now, states, counties, and ZIP Codes can better understand Risk Rating 2.0’s full impacts. The Coalition for Sustainable Flood Insurance (CSFI) has compiled the 25 most impacted [states](#), [counties](#), and [ZIP Codes](#).